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	Filing Date	March 12, 2001	
	First Named Inventor	M. Ibrahim Sezan	
	Art Unit	2179	
	Examiner Name	Chuong, Truc T.	
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Firm	Chernoff, Vilhauer, McClung & Stenzel, L.L.P.		
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant:	Sezan et al.	Group Art Unit:	2179
Serial No.:	09/804,612	Examiner:	Truc T. Chuong
Filed:	March 12, 2001	Customer No.:	55648
Title:	AUDIOVISUAL INFORMATION MANAGEMENT SYSTEM		

**APPELLANT'S REPLY BRIEF**

Chernoff, Vilhauer, McClung, and Stenzel  
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March 12, 2008

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Dear Sir:

## BACKGROUND

This brief is in furtherance of the Notice of Appeal, filed in this case on May 5, 2007, the Appeal Brief, filed in this case on October 11, 2007, and in response to the Examiner's Answer, mailed on January 25, 2008.

## **STATUS OF CLAIMS**

### **A. TOTAL NUMBER OF CLAIMS IN THE APPLICATION**

There are 23 claims currently pending in the application.

### **B. STATUS OF ALL CLAIMS**

Claims canceled: 1

Claims withdrawn: None

Claims pending: 2-24

Claims allowed: None

Claims objected to: None

Claims rejected: 2-24

### **C. CLAIMS ON APPEAL**

Claims 2-24 are on appeal.

A copy of the claims on appeal is set forth in the Claims Appendix to this Brief.

## **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

The grounds of rejection presented for review are (1) whether claims 2-23 are unpatentable under 35 U.S.C. §103(a) over Oosterhout et al., U.S. Pat. No. 6,405,371 (hereinafter Oosterhout), in view of Yoshida et al., U.S. Pat. No. 6,137,486 (hereinafter Yoshida); and (2) whether claim 24 is unpatentable under 35 U.S.C. §103(a) over the aforementioned combination of Oosterhout and Yoshida, and in further view of Brown et al., U.S. Patent No. 6,286,141 (hereinafter Brown).

## **ARGUMENT**

### **1. Rejection of claims 2-23**

The Examiner rejected claims 2-23 under 35 U.S.C. § 103(a) as being obvious over the combination of Oosterhout in view of Yoshida. Independent claim 21 first requires that the claimed user description scheme contain “*electronically stored* user preference data for a predetermined user, said user preference data indicative of *expected* content preferences for an identified said predetermined user.” Then, “an electronic device select[s] *without user input* at least one of a video, an image, and audio *based upon an interaction of said user description scheme* with at least one of said program description scheme or said system description scheme.” These limitations are not disclosed by either prior art reference. Thus, claim 21 requires both that an electronic device select programming “without user input” and do so “based on an interaction with an “electronically stored user description scheme” that has stored preference data “indicative of *expected* content preferences for an identified said predetermined user.” Neither of these limitations are disclosed by the cited reference.

As noted in applicant’s appeal brief, and as conceded by the Examiner, Oosterhout merely discloses an EPG that lets a user *manually select* or otherwise enter themes, and on that basis, an EPG grid is filtered to mark available content that matches the manually selected theme. Thus, applicant’s argument in the Appeal Brief, with respect to Oosterhout, was that the reference failed to disclose either of the foregoing limitations; all selections were based on a comparison between *manually selected* queries to available program content, and if the queries were manually entered, they could not be *electronically stored* preference data for *expected* preferences.

In response, the Examiner avoids both of these issues. For example, in explaining the rejection of claims 2-23, the Examiner asserts that Oosterhout discloses “an electronically stored . . . user description scheme containing user preference data for a user.” *See* Examiner’s Answer at p. 3 lines 6-9. The Examiner, however, fails to address the applicant’s point, which is that Oosterhout fails to disclose preference data for “expected preferences of a user”, and merely cites the portions of Oosterhout that the *applicant* relies upon to show that this feature is absent, i.e. that the “preference data” relates only to current preferences. *See Id.* at p. 3 line 9-10 (“if the theme button is selected, the program allows the user to input the type of television program he is *currently* interested in.”)(emphasis added). At no point does the Examiner point to any passage of Oosterhout disclosing the electronic storage of “*expected* content preferences.”

Similarly, the Examiner’s assertion, at p. 4 lines 8-10 that Oosterhout’s disclosure at “col. 4 lines 40-49 . . . clearly means that the electronic device using microprocessor 25 automatically searches for upcoming programs without actual user input at that time” is irrelevant. The claim limitation requires that the comparison between stored preference data of expected content preferences to upcoming programs be performed without manual input, not that the earlier step of compiling the list of upcoming programs be performed without manual input.

Notwithstanding the fact that these two limitations are clearly missing from Oosterhout, the Examiner proceeds as if the only remaining limitation needed to be provided by the secondary reference, Yoshida, is the “system providing data for a predetermined user”, such that the missing pieces are merely filled by a channel lock/password feature of that secondary reference. *See Id.* at p. 4 lines 13-22. As an aside, the Examiner’s assertion, in the latter portion of this passage, that “Yoshida inherently teaches that after a user enters his/her password(s), he/she can view the user preference data indicative of expected content preferences for the

identified . . . predetermined user” is both logically and factually incorrect. Yoshida discloses nothing of the sort, and the only *inherent* feature of a password is to limit access to undesirable content itself, and not “user preference data indicative of expected content preferences”, let alone “electronically stored” preference data. For example, a password of Yoshida blocking access by minors to program channels likely containing violence or nudity, means that after entering the password, you can then view the programming of those channels. Electronically stored channel bandwidth ranges are not, by any leap of imagination, “user preference data indicative of expected content preferences for a predetermined user.” If that were the case, then this limitation would lose all meaning because every set top box in a service area has identical such channel information for every user.

Similarly, the Examiner logically errs in concluding that after a password of Yoshida is entered, “the display will view a list of movies or particular channels, which were preset/predetermined by the user.” This assertion is unsupported by either prior art disclosure. Yoshida blocks access to the programs or channels themselves, and *fails to disclose modifying an EPG grid in any way*. Absent such a disclosure, the Examiner’s rejection of claims 2-23 under 35 U.S.C. § 103(a) fails; one of ordinary skill in the art would derive no impetus at all to modify the mosaic EPG grid of Oosterhout from a reference that merely teaches how to block access to content channels, or particular programming within those content channels.

For all of the foregoing reasons, the Examiner’s rejection of claims 2-23 under 35 U.S.C. § 103(a) should be reversed.

## **2. Rejection of claim 24**

Claim 24 depends from claim 21, and the Examiner’s rejection of claim 24 depends on the assertion that the combination of Oosterhout and Yoshida teach all limitations of claim 21.

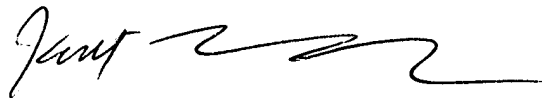
Therefore, the Examiner's rejection of claim 24 is improper for the same reasons as is claim 21, and should also be reversed.



**CONCLUSION**

The Examiner's respective rejections of claims 2-24 should be reversed, and the claims should be found patentable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kurt', followed by a long, horizontal, wavy line that extends to the right.

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